

## **REMARKS**

### **I. Overview**

By this Amendment, Claims 20 and 40-58 are canceled without prejudice or disclaimer and claims 59-70 are newly added. Therefore, claims 59-70 are pending in the application.

This Amendment supplements the amendment of 30 August 2007, which was a Response to the Official Action of 25 July 2007. As a Response was filed to the Official Action of 25 July 2007, it is believed that no Official Action is outstanding currently. As such, no fee for any extensions of time are believed to be due. However, to the extent that a request for extension of time is due, a Request for Extension of Time is respectfully requested for an appropriate amount of time, and the Commissioner is authorized to deduct any fees that may be due from **Deposit Account 50-1590**.

Entry of the amendment is respectfully requested. Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

### **II. The Applicant's Device**

The claimed structure improves over conventional ozone producing apparatus by providing a simple mechanical adjustment of the amount of ozone being produced, where such adjustment is effected by a rotation of a cylinder within another cylinder, such rotation causing adjustment of the overlapping of windows of the cylinders, which adjusts the ozone-producing radiation through the overlap. The claimed structure may include a knob that rotates in correspondence with the rotating cylinder. The prior art does not teach or suggest any ozone generating apparatus that allows such rotational adjustment, and the novelty of the subject invention is evidenced by its commercial success.

### III. Discussion of Prior Art

The prior art, alone or in combination, do not teach or suggest an ozone-producing lamp within a rotating cylinder within a fixed cylinder.

Rather, *McMillan, Jr.* (U.S. Patent No. 3,752,748) discloses adjusting the level of ozone in a chamber 23 by moving knob 17 on display panel 11, causing the telescoping tube assembly “T” to move [lengthwise] with respect to the envelope 45 and selectively enclose varying portions of the **length** of the envelope 45 of the ultraviolet source “V.” (e.g., col. 10: lines 51-56)(emphasis added herein). The telescoping tube assembly T (Fig. 5) includes individual sleeve members 61, 62, 63 that are attached to a collar 66 that has a hook attached to a cable 68 that passes over a drive pulley 70 and a driven pulley 71 (Figs. 2 and 3) as a continuous loop; supporting structure includes a spring 74 that exerts force on a sleeve 73 and pulley hanger 72 to maintain tension on cable 68 substantially constant (e.g., col. 6: lines 1-33). Rotation of knob 17 causes rotation of drive pulley 70 (e.g., col. 6: lines 41-49).

In comparison to the Applicant’s claimed invention, the *McMillan, Jr.* structure is a complex arrangement of pulleys, wheels, and supports that moves a telescoping structure in a lengthwise direction, and such is not a structure that simply rotates a cylinder and window within another cylinder and window, as is claimed. An extension and retraction of the telescoping tube assembly T is quite different from the claimed structure. An ordinarily skilled artisan would not have been motivated to achieve the simple claimed mechanism by viewing the *McMillan, Jr.* reference. In addition, the *McMillan, Jr.* structure is a sealed housing “H,” is therefore not suited for use in an HVAC duct, and this main purpose of *McMillan, Jr.* would be rendered inoperable in attempting to modify the structure to achieve the subject invention. There would have been no motivation or suggestion to have combined or modified references when doing so would render

the applied references unsatisfactory for their intended purpose. See In re Gordon, 221 USPQ 1125 (Fed. Cir. 1984), *cited in* MPEP § 2143.01.

Applicant notes that the telescoping sections 61-63 of *McMillan* do not have openings or windows and do not rotate.

The *Nelson* reference (U.S. Application Publ. 20020098109) discloses an air purifier having an end-cap 72. A single lamp 36 has an ozone section 12 and a germicidal section 14, and a power connector 19 that provides power to lamp 36 (e.g., Fig. 3). End-cap 72 includes electric power connections formed as pins 76, which are inserted into a power plug 78 when end-cap 72 is properly oriented (e.g., ¶¶70, 77, Figs. 4, 7). End-cap 72 is cylindrical and elongated to cover ozone section 12 of lamp 36; (“Slots 89 are defined in end-cap 72 to regulate the amount of radiation emitted in the ozone chamber (i.e., the amount of radiation permitted to pass from the bulb through the end-cap into the ozone chamber), thereby controlling ozone production. Slots 89 are typically elliptical and defined in end-cap 72 about the exterior end-cap surface in a non-overlapping manner angularly spaced a slight distance from each other toward the upper portion of the end-cap (FIG. 6). Alternatively, slots 89 may be defined about the end-cap exterior surface in an overlapping or helical fashion toward the upper portion of the end-cap (FIG. 7). However, the slots may be of any size or shape, may be of any quantity and may be defined in the end-cap in any fashion to facilitate particular radiation intensities within the ozone chamber to produce desired ozone concentrations. End-cap 72 may include predetermined slot arrangements to produce a desired ozone concentration level, or may include a particular slot arrangement that is used in conjunction with a radiation emitting bulb having a coating (e.g., a coating to block radiation, such as Teflon) on the bulb to block radiation emissions from certain sections of the bulb.”)(¶74, Figs. 6 and 7). It appears that radiation openings of end-cap 72 may

be formed as slots 89 (§74) or as windows 174 (§76). Alternatively, a fixed-length sleeve may slide along and cover a specific portion of the ozone section 12 or germicidal section (e.g., §78).

By comparison, the end-cap 72 of *Nelson* is a single cylinder that is fixed in place for maintaining orientation of an electrical connector. Such teaches away from the claimed structure that adjusts by a rotation of a cylinder within another cylinder. A single fixed cylinder, as in *Nelson*, does not teach or suggest what is claimed. In addition, a single sliding sleeve of *Nelson* that covers specific lengthwise sections of tube 36 does not teach or suggest what is claimed, but is instead similar to the telescoping structure of *McMillan, Jr.* Further, the electrical connections 76 of *Nelson* teach away from the claimed structure.

#### **IV. Conclusion**

For the stated reasons, Applicant believes the application should be passed to issue.

The Examiner is kindly requested to call the undersigned at the telephone number listed below with any questions or requests. In addition, Applicant can provide sales records evidencing “commercial success” of the subject invention. Such evidence will be provided if necessary. Applicant thanks the Examiner for her further examination of the application.

#### **V. Change of Address**

Submitted herewith is a Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address.

Amendment under 37 C.F.R. § 1.111  
US Application 10/823,255

The Office is respectfully requested to address all future correspondence to **Customer**  
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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Victor Indiano', is written over a horizontal line.

E. Victor Indiano  
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Date: **2** / November 2007